16-25-5

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 586.

A. S. BADGER, COLLECTOR OF CUSTOMS OF THE PORT OF NEW ORLEANS, PLAINTIFF IN ERROR,

vs.

D. L. RANLETT & COMPANY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED SEPTEMBER 24, 1881.

SUPREME COURT OF THE UNITED STATES.

No. 586.

A. S. BADGER, COLLECTOR OF CUSTOMS OF THE PORT OF NEW ORLEANS, PLAINTIFF IN ERROR,

vs.

D. L. RANLETT & COMPANY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Petition	1	1
Exhibit A, custom-house entry	7	3
B, custom-house entry	9	6
C, custom-house entry	11	9
D, custom-house entry	13	12
Citation	14	12
Answer	15	12
Verdict	16	13
Bill of exception	17	13
Judgment	20	14
Motion and order for writ of error	21	15
Clerk's certificate	23	15
Writ of error	24	16
Citation	25	16

a UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

A. S. BADGER, COLLECTOR OF CUSTOMS, PLAINTIFF in error,
vs.
D. L. RANLETT & CO., DEFENDANTS IN ERROR. } No. 9192.

A. H. Leonard, U. S. attorney for plaintiff in error.
Kennard, Howe & Prentiss, esqrs., for defendants in error.

Writ of error returnable to the Supreme Court of the United States at the city of Washington, D. C., the second Monday of October, A. D. 1881.

1 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

D. L. RANLETT & CO.
vs.
A. S. BADGER, COLLECTOR. } No. 9192.

Petition.—Filed November 29th, 1881.

To the hon. the judges of the circuit court of the United States for the fifth circuit and district of Louisiana:

The petition of David L. Ranlett and Edward L. Ranlett, of the city of New Orleans, and citizens of the State of Louisiana, and who compose the commercial firm of D. L. Ranlett & Co., of said city, respectfully shows:

1. That your petitioners during the times hereinafter set forth, and for some years prior thereto, have composed said commercial firm of D. L. Ranlett & Co., of New Orleans, engaged, among other business, in importing the article hereinafter set forth.

2 2. That on or about the month of August, 1880, your petitioner imported from England to the port of New Orleans sundry manufactures of iron, viz, certain invoices of black iron cotton-ties, the property of your petitioners' said firm, in bundles of thirty strips each, cut to the required length of eleven feet; and sundry buckles, also your petitioners' property attached, being thirty buckles to each bundle of said ties, of which importations full particulars are given in the three certified copies of custom-house entries hereto annexed, and made part hereof, and dated respectively—

August 10, 1880,
23, "
23, "

and marked Exhibits A, B, C.

3 That your petitioners in importing said goods, wares, and merchandise have in all respects complied with and observed the customs laws of the United States, and have been ready and willing to pay the duties on said goods as required by said customs laws; that said duties justly and truly amounted, and amount, according to said customs laws,

3 to the sum of three thousand and thirteen dollars and fifteen cents ($3,013.15), and said sum your petitioners duly offered to pay to Algernon S. Badger, the collector of the port of New Orleans.

4. That said Algernon S. Badger, collector of customs of said port, unlawfully refused to receive the said sums and permit your petitioners to have and control said property as duty paid, and illegally required your petitioners to pay the sum of six thousand seven hundred and thirty-six dollars and fourteen cents ($6,736.14), for duties on said goods, as will more fully appear by the statement hereto annexed and made part hereof as Exhibit D, which payments your petitioners were obliged to make under duress of their said property, and did make under written protest and notices duly made with said collector, according to the requirements of the statutes of the United States.

That on said importations of your petitioners' said merchandise they were also unlawfully required by said collector to pay and did pay unto him for duties thereon, and under like duress and protest, the 4 further sum of thirty-nine $\frac{81}{100}$ dollars, being the net liquidated deficit unlawfully claimed and so collected and not included in said Exhibit D, but which fully appears on the face of said exhibits hereof A to C, inclusive.

5. That the only proper and lawful duty on said property, being the said ties and buckles, and each of them, was and is thirty-five per centum ad valorem, and no more, and amounted to the said sum of $3,013.15, and no more, and that the amounts which your petitioners have as aforesaid been compelled to pay in the premises unlawfully and in excess of legal duties and by duress and under protest was and is the sum of three thousand seven hundred and sixty-two dollars.

6. That your petitioners, on each occasion as aforesaid, when said sums have been thus exacted, have, within ten days after the ascertainment and liquidation of the said duties as claimed, given due notice in writing to the said collector on each entry, setting forth therein 5 distinctly and specifically the grounds of their objections thereto, respectively, and the said collector having persisted in his illegal demand, your petitioners did, within thirty days from said ascertainment and liquidation, appeal therefrom to the Secretary of the Treasury on each of said entries respectively, and the said Secretary of the Treasury has, within ninety days prior to the filing of this petition, viz, on the 30th September, 1880, decided said questions adversely to your petitioners' claim, and held that the action of said Collector Badger on the premises was and is lawful.

Now your petitioners show that said decision of said Secretary is erroneous, that the said sum of $3,762 was illegally exacted, and that they are entitled to recover the same from said Algernon S. Badger, as aforesaid.

That even if the said strips of iron ties are not to be admitted at 35 % duty, ad valorem (which is specially denied), the duty on the said buckles could not lawfully have exceeded that amount, viz, 35 per centum ad valorem, and in this item alone your petitioners are 6 entitled to recover the sum of $750.

But your petitioners show that the said ties, composed of said strips and buckles in said bundles, constitute a manufacture of iron for a special and important purpose and are subject as such to only a duty of 35 per centum ad valorem, as manufactures of iron not otherwise provided for. Rev. Stat. U. S. of 1878, p. 467.

Premises considered, your petitioners pray that said Algernon S. Badger, collector of customs of the port of New Orleans, may be duly

cited and condemned to pay petitioners the sum of three thousand seven hundred and sixty-two dollars ($3,762), and for all costs and general relief.

(Signed) KENNARD, HOWE & PRENTISS,
Att'ys for Petitioners.

7 EXHIBIT A.

[Form 8.]

[Entry for consumption on immediate arrival.]

Entry for consumption of merchandise imported by D. L. Ranlett & Co., on the Br. S. S. Robinia, Robinson, master, from Liverpool, on the 10th day of Aug't, 1880.

Marks.	Nos.	Packages.	Description of goods.	Quantity. London.	Invoice currency.
D. L. R., N. O.	83–86	Four.....	Cases gun caps	.....	138. 10. 3
			Charges	.....	2. 16. 4
					141. 6. 7
			Commis., 2½ %.....	.....	3. 10. 7
					£144. 17. 2
			@ 486.65 Birmingham.....	.....	$705
Four thousand three hundred & twenty bundles black iron cotton-ties, thirty strips each, bundles, & thirty Kinnedy buckles				224, 640	859. 19
Charges				.....	4. 6
					860. 3. 6
Commission, 2½ %.....				.....	21. 10. 1
@ 486.65				.....	$4, 291
Less 23 bundles short w'ght out				.....	23
					$4, 268

40 %, $705, 1½ value.

705, 40 %	282 00
4,291, 224, 640, 1½c.....	3, 369 60
	$3, 651 60

(S'g.) J. B. L.
(S'g.) J. P.

Aug. 10, '80.
(S'g.) J. D. L.

$705, 40 %	282
4,268, 226, 989 lbs., 1½c.....	3, 404 84
	3, 686 84
Paid	3, 651 60
Deficit	35 24

Liquid Aug't 26, '80.
(S'g.) J. M. H.

Passed naval office Aug't 27, '80.
(S'g.) J. W.

Oath, 20c.; permit, 20c.; invoice, 40c.; bond, 40c.—$1.20.
(Signed) D. L. RANLETT & CO.

(In pencil:) Protested Aug. 28th.

DISTRICT & PORT OF NEW ORLEANS,
Collector's Office, Nov. 22, 1880.

I hereby certify the above to be a true copy of the original on file at this office.
(Signed) J. D. CRAWFORD,
D'y Collector.

8 [Form No. 12.]

Manufacturer's or owner's oath. In cases when goods have not been actually purchased.

I, , do solemnly, sincerely, and truly swear that the entry now delivered by me to the collector of the district of New Orleans, contains a just and true account of all the goods, wares, and merchandise, imported by or consigned to me, in the , whereof is master, from (except what is now being entered by , and upon which the duty chargeable has been secured according to law) that the said goods, wares, and merchandise were not actually bought by me, or my agent, in the ordinary mode of bargain and sale, but that, nevertheless, the invoice which I now produce contains a just and faithful valuation of the same, at their fair market value, including charges of purchasing, carriage, bleaching, dyeing, dressing, finishing, putting up, and packing, at the time or times, and place and places, when and where procured for my account, or for account of myself and partners; that the said invoice contains also a just and faithful account of all charges actually paid, and no other discount, drawback, or bounty, but such as has been actually allowed on the said goods, wares, and merchandise; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me, and that they are in the state in which I actually received them, and that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made. And I do further solemnly and truly swear that I have not, in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if, at any time hereafter, I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

PORT OF NEW ORLEANS, , .
Sworn to this day of , 188 .

Collector.

[Form No. 10.]

Oath of consignee, importer, or agent.

I, , do solemnly and truly swear that the invoice and bill of lading, now produced by me to the collector of the district of

New Orleans, are the true and only invoice and bill of lading, by me received, of all the goods, wares, and merchandise imported in the , whereof is master, from , for account of any person whomsoever, for whom I am authorized to enter the same, except what is now being entered for that the said invoice and bill of lading are in the state in which they were actually received by me, and that I do not know or believe in the existence of any other invoice or bill of lading of the said goods, wares, and merchandise; that the entry now delivered to the collector contains a just and true account of the said goods, wares, and merchandise, according to the said invoice and bill of lading; that nothing has been, on my part, nor to my knowledge on the part of any other person, concealed or suppressed whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made, and that if, at any time hereafter, I discover any error in the said invoice, or in the account now tendered of the said goods, wares, and merchandise, or receive any other invoice of the same I will immediately make the same known to the collector of this district. And I do further solemnly and truly swear that, to the best of my knowledge and beli f the owner of the goods wares, and merchandise mentioned in the annexed entry; that the invoice now produced by me exhibits the actual cost, or market value, at of the said goods, wares, and merchandise, and all charges thereon, and no other or different discount, bounty, or drawback, but such as has been actually allowed on the same.

PORT OF NEW ORLEANS, , .

Sworn to this day of , 188 .

Collector.

Bond 672.
(S'g.) C. B. F.
(Sig.) S. G.

[Form No. 11.]

Owner's oath in cases where goods, wares, or merchandise have been actually purchased.

I, do solemnly and truly swear that the entry now delivered by me to the collector of the district of New Orleans, contains a just and true account of all the goods, wares, and merchandise imported by or consigned to order, in the Br. S. S. Robinia, whereof Robinson master, from Liverpool; that the invoice which I now produce contains a just and faithful account of the actual cost of the said goods, wares, and merchandise; of all charges thereon, including charges of purchasing, carriages, bleaching, dyeing, dressing, finishing, putting up, and packing, and no other discount, drawback, or bounty but such as has been actually allowed on the same; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me; that they are in the state in which I actually received them, and that the said invoice and the declaration thereon are in all respects true and were made by the person by whom the same purport

to have been made. And I do further solemnly and truly swear that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise, and that if, at any time hereafter, I discover any error in the said invoice or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

(S'g.) E. L. RANLETT.

PORT OF NEW ORLEANS, , .

Sworn to this 10 day of Aug., 1880.

(S'g.) J. D. CRAWFORD,
D'y Collector.

(Indorsed:) No. 2184. Impost entry. Aug. 10, 1880. Br. S. S. Robinia, master, from Liverpool, D. L. Ranlett & Co. Original duty, $3,651.60; ascertained duty, $3,686.84; deficit, $35.24. Liq Aug. 26, 1880. S'g. J. M. H. Passed naval office Aug. 27, 1880. Remarks.

9 EXHIBIT B.

[Form 8.]

[Entry for consumption on immediate arrival.]

Entry for consumption of merchandise imported by D. L. Ranlett & Co., on the Ger. S. S. Africa, Runge, master, from Liverpool, on the 23d day of Aug't, 1880.

Marks.	Nos.	Packages.	Description of goods.	Quantity.	Invoice, currency.
Four hundred and eighteen bundles blacked iron cotton-ties, arrow buckles No. 4. thirty buckles & thirty strips to ea. b'dle, 11 ft.				10. 0. 0. 0	
Two thousand one hundred & ten blacked iron cotton-ties, Kennedy buckles, thirty buckles & thirty strips to ea. b'dle, 11 ft.				48. 19. 2. 16	
				58. 19. 2. 16	516. 4. 1
				132, 120	10. 6. 7
					505. 17. 6
Charges					4. 6
					506. 2.
Commis., 2½					12. 13.
					518. 15.

2,524, 132,120—$2,524.
1½ c. value, 22,902; 106,669=129,571.

2,524, 129,571, @ 1½c	1,943 57
Paid	1,981 80
Excess	38 23

Liquid, Sept. 8, 1880.
(S'g.) J. M. H.

Passed naval office, Sept. 9, '80.

J. W.

$25.24, 132,120 @ 1½c. per lb 1,981 80

(S'g.) L. H. M.
(S'g.) J. D. L.
(S'g.) J. P.

AUG'T 24, 1880.
(Signed) D. L. RANLETT & CO.

DISTRICT & PORT OF NEW ORLEANS,
Collector's Office, Nov. 22, 1880.

I hereby certify the above to be a true copy of the original on file at this office.

(Signed) J. D. CRAWFORD,
D'y Coll'r.

10 [Form No. 12.]

Manufacturer's or owner's oath in cases when goods have not been actualyl purchased.

I, , do solemnly, sincerely, and truly swear that the entry now delivered by me to the collector of the district of New Orleans contains a just and true account of all the goods, wares, and merchandise imported by or consigned to me, in the , whereof is master, from (except what is now being entered by and upon which the duty chargeable has been secured according to law); that the said goods, wares, and merchandise were not actually bought by me, or my agent, in the ordinary mode of bargain and sale, but that, nevertheless, the invoice which I now produce contains a just and faithful valuation of the same, at their fair market value, including charges of purchasing, carriage, bleaching, dyeing, dressing, finishing, putting up and packing, at the time or times and place and places when and where procured for my account or for account of myself and partners; that the said invoice contains, also, a just and faithful account of all charges actually paid, and no other discount, drawback, or bounty but such as has been actually allowed on the said goods, wares, and merchandise; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me, and that they are in the state in which I actually received them, and that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made. And I do further solemnly and truly swear that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if, at any time hereafter, I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

PORT OF NEW ORLEANS, , .

Sworn to this day of 188 .

Collector.

[Form No. 10.]

Oath of consignee, importer, or agent.

I, , do solemnly, and truly, swear that the invoice and bill of lading now produced by me to the collector of the district of

New Orleans are the true and only invoice and bill of lading by me received of all the goods, wares, and merchandise imported in the , whereof is master, from , for account of any person whomsoever, for whom I am authorized to enter the same (except what is now being entered for); that the said invoice and bill of lading are in the state in which they were actually received by me, and that I do not know or believe in the existence of any other invoice or bill of lading of the said goods, wares, and merchandise; that the entry now delivered to the collector contains a just and true account of the said goods, wares, and merchandise, according to the said invoice and bill of lading; that nothing has been on my part, nor to my knowledge on the part of any other person, concealed or suppressed, whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made, and that if, at any time hereafter, I discover any error in the said invoice, or in the account now tendered of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district. And I do further solemnly and truly swear that, to the best of my knowledge and belief the owner of the goods, wares, and merchandise mentioned in the annexed entry; that the invoice now produced by me exhibits the actual cost or market value at of the said goods, wares, and merchandise, and all charges thereon, and no other or different discount, bounty, or drawback but such as has been actually allowed on the same.

PORT OF NEW ORLEANS, , .

Sworn to this day of , 188 .

, *Collector.*

Bond 719.
(S'g.) S. G.

[Form No. 11.]

Owner's oath in cases where goods, wares, or merchandise have been actually purchased.

I, E. L. Ranlett, do solemnly and truly swear that the entry now delivered by me to the collector of the district of New Orleans contains a just and true account of all the goods, wares, and merchandise imported by or consigned to order , in the Ger. S. S. Africa, whereof master, from Liverpool (except what is now being entered for warehouse); that the invoice which I now produce contains a just and faithful account of the actual cost of the said goods, wares, and merchandise, of all charges thereon, including charges of purchasing, carriages, bleaching, dyeing, dressing, finishing, putting up, and packing, and no other discount, drawback, or bounty but such as has been actually allowed on the same; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me; that they are in the state in which I actually received them, and that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made. And I do further solemnly and truly swear that I have not in the said entry or invoice concealed or suppressed anything

whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise, and that if at any time hereafter I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

(Signed) E. L. RANLETT.

PORT OF NEW ORLEANS, , .

Sworn to this 24 day of Aug't, 1880.

(Signed) J. D. CRAWFORD,
Dy Collector.

(Indorsed:) No. 2310. Impost entry. Aug't 23, 1880. Ger. S. S. Africa, , master, from Liverpool. D. L. Ranlett. Original duty, $1,981.80; ascertained duty, $1,943.57; excess, $38.23; refunded, $. Liquidated Sept. 8, '80. Paid Aug. 24, 1880. Passed naval office Sept. 9, 1880. Sg. J. W. Remarks.

11 EXHIBIT C.

[Form 8.]

Warehouse entry, custom-house, port of New Orleans, Aug. 23, 1880.—Entry for warehouse of merchandise imported by D. L. Ranlett & Co., on the 23d Aug't, 1880, in the Ger. S. S. Africa, master, from Liverpool.

Marks.	Nos.	Description of goods.	Quantity. Birmingham.		1½ c. lb.
One thousand and twenty bundles blacked iron cotton-ties, Kennedy buckles, thirty buckles & thirty strips to ea. b'le, 11 ft.			23. 13. 2. 8	.....	.....
Eight hundred and ten bundles blacked iron cotton-ties, Kennedy buckles, thirty buckles & strips ea. b'dle, 11 ft.			18. 16. 8	.....	51,566 lbs.
			42. 9. 2. 16 95,160	371. 12. 2	40,949
Di'c't 2 %			.....	7. 8. 7	
Commiss. 2½ %			.....	364. 3. 7 9. 2. 1	92,515 lbs.
				£373. 5. 8	

1,817, 95,160, 1,817.
Total, 1,817; dutiable value of each package, 99c. p'r b'dle.
1,817, 95,160 lbs., @ 1½c. per lb., $1,427.40.

(S'g.) J. B. L.
(S'g.) J. P.
(Signed) D. L. RANLETT & CO.

$1,817, 92,515, @ 1½, $1,387.73.
Liquid. Sept. 8, '80.
(S'g'd) J. M. H.

Passed naval office Sept. 9, 1880.
(S'g.) J. W.

DISTRICT & PORT OF NEW ORLEANS,
Collector's Office, Nov. 22, 1880.

I hereby certify the above to be a true copy of the original on file at this office.

(Signed) J. D. CRAWFORD,
Dy Collector.

12 [Form No. 12.]

Manufacturer's or owner's oath in cases when goods have not been actually purchased.

I, , do solemnly, sincerely, and truly swear that the entry now delivered by me to the collector of the district of New Orleans contains a just and true account of all the goods, wares, and merchandise imported by or consigned to me, in the , whereof is master, from (except what is now being entered by, and upon which the duty chargeable has been secured according to law); that the said goods, wares, and merchandise were not actually bought by me, or my agent, in the ordinary mode of bargain and sale, but that nevertheless the invoice which I now produce contains a just and faithful valuation of the same, at their fair market value, including charges of purchasing, carriage, bleaching, dyeing, dressing, finishing, putting up and packing, at the time or times and place and places when and where procured for my account, or for account of myself and partners; that the said invoice contains also a just and faithful account of all charges actually paid, and no other discount, drawback, or bounty but such as has been actually allowed on the said goods, wares, and merchandise; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me, and that they are in the state in which I actually received them; and that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made. And I do further solemnly and truly swear that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if, at any time hereafter, I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

PORT OF NEW ORLEANS, , .

Sworn to this day of , 188 .

, *Collector.*

[Form No. 10.]

Oath of consignee, importer, or agent.

I, , do solemnly and truly swear that the invoice and bill of lading, now produced by me to the collector of the district of New Orleans are the true and only invoice and bill of lading by me received, of all the goods, wares, and merchandise imported in the whereof is master, from , for account of any person whomsoever, for whom I am authorized to enter the same, (except what is now being entered for;) that the said invoice and bill of lading are in the same state in which they were actually received by me, and that I do not know or believe in the existence of any other invoice or bill of lading of the said goods, wares, and merchandise; that the entry now delivered to the collector

contains a just and true account of the said goods, wares, and merchandise according to the said invoice and bill of lading; that nothing has been, on my part, nor to my knowledge, on the part of any other person, concealed or suppressed whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purport to have been made, and that if, at any time hereafter, I discover any error in the said invoice, or in the account now tendered of the said goods, wares, and merchandise, or receive any other invoice of the same I will immediately make the same known to the collector of this district. And I do further solemnly and truly swear that to the best of my knowledge and belief the owner of the goods, wares, and merchandise mentioned in the annexed entry; that the invoice now produced by me exhibits the actual cost or market value at of the said goods, wares, and merchandise, and all charges thereon, and no other or different discount, bounty, or drawback but such as has been actually allowed on the same.

PORT OF NEW ORLEANS, , .

Sworn to this day of , 188 . .

, *Collector.*

Bond 329.
(S'g.) S. G.
(S'g.) J. P.

[Form No. 11.]

Owner's oath in cases where goods, wares, or merchandise have been actually purchased.

I, E. L. Ranlett, do solemnly and truly swear that the entry now delivered by me to the collector of the district of New Orleans, contains a just and true account of all the goods, wares, and merchandise imported by or consigned to order, in the Ger. S. S. Africa, whereof master, from Liverpool; that the invoice which I now produce contains a just and faithful account of the actual cost of the said goods, wares, and merchandise, of all charges thereon, including charges of purchasing, carriages, bleaching, dyeing, dressing, finishing, putting up and packing, and no other discount, drawback, or bounty but such as has been actually allowed on the same; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me; that they are in the state in which I actually received them, and that the said invoice and the declaration thereon are in all respects true and were made by the person by whom the same purport to have been made. And I do further solemnly and truly swear that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if, at any time hereafter, I discover any error in the said invoice or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

(Signed) E. L. RANLETT.

PORT OF NEW ORLEANS, , .

Sworn to this 24' day of Aug't, 1880.
(Signed) J. D. CRAWFORD,
D'y Collector.

(Indorsed:) 329. No. 2309. Warehouse entry, Aug't 23, 1880. Ger. S. S. Africa, master, from Liverpool. D. L. Ranlett & Co. 1,427.40; 1,387.73—39.67. Completed O. K. Liq. Sept. 8, 1880. (S'g.) J. M. H. Permit issued Aug't 24, '80. Passed naval office Sept. 9, 1880. (S'g.) J. W. Remarks.

13 EXHIBIT D.

Date of entry.	Date of liq'n.	Vessel.	No. of bundles.	£ s. d.	$	Weight.	Style of entry.	Duty @ 35 % ad valorem.	Am't of duty.
1880.									
Aug. 10...	Aug. 26.	S. S. Robinia.	4297 cotton-ties.	881 13 7	$4,268	226,987	In. com.	"	$1,493 80
" 23...	Sep't 8.	" " Africa..	2528 " "	518 15	2,524	129,571	do. do.	"	883 40
" 23....	" 8.	Africa..	1830 " "	373 5 8	1,817	92,515	W. E.	"	635 95
Total proper duty at 35 % ad val.....									3,013 15
Aug't 10...	Aug. 26	Same.....	4297 cotton-ties.	881 13 7	$4,268	226,989	In. com.	1½ lb.	3,404 84
" 23...	Sep't 8.	.....	2528 " "	518 15	2,524	129,571	do. do.	" "	1,943 57
" 23...	" 8.	.....	1830 " "	373 5 8	1,827	92,515	W. E.	" "	1,387 73
Total duties exacted.....									6,736 14
Deduct proper duties at 35 % ad val.....									3,013 15
Am't illegally exacted.....									3,722 99

14 *Citation.—Issued November 29th*, 1881.

D. L. RANLET & Co.
vs.
A. S. BADGER, COLLECTOR OF CUSTMOS, &C. } No. 9192.

To ALGERNON S. BADGER,
Collector of Customs of the Port of New Orleans:

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or to deliver your answer to the same, in the office of the clerk of the circuit court of the United States, fifth circuit and district of Louisiana, in the city of New Orleans, in ten days after the service hereof, which delay is increased one day for every ten miles your place of residence is distant from New Orleans, the place where the court is held.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 29th day of November, A. D. 1880, & of the Independence of the United States of America the 105th year.

15 [SEAL.] (Signed) T. V. COUPLAND,
D'y Clerk.

Marshal's return.

Received Nov. 20, 1880, by the U. S. marshal, and on the same day, month, and year I *received* a true copy of the within citation and the

accompanying petition on Algernon S. Badger collector of customs for the port of New Orleans, by handing the same to him in person, in the city of New Orleans, at his office in the custom-house building.

(Signed) E. S. CURRY,
D'y U. S. Marshal.

Answer.—Filed December 14, 1880.

Circuit court of the United States for the fifth circuit and eastern district of Louisiana.

D. L. RANLETT & CO.
vs.
A. S. BADGER, COLLECTOR, &C. } No. 9192.

Now comes the defendant in this cause, and for answer to plaintiffs' petition, denies all and singular the allegations thereof, and prays
16 to be hence dismissed with costs.

(Signed) J. W. GURLEY,
Ass't U. S. Att'y.

Verdict.—Extract from the minutes, April term, 1881.

NEW ORLEANS, *Wednesday, May* 18, 1881.

Court met pursuant to adjournment. Present, Hon. E. C. Billings, district judge.

D. L. RANLETT & CO.
vs.
A. S. BADGER, COLLECTOR, &C. } No. 9192.

By consent this cause was taken up.

Kennard, Howe & Prentiss for plaintiffs; A. H. Leonard, U. S. att'y, for defendant.

When the following-named jurors were called and sworn to well and truly try the issues joined in said case:

1. J. A. Vignaud.
2. B. F. Chambers.
3. W. J. McGehan.
4. R. M. Ong.
5. D. R. Graham.
6. Neville Smith.
7. R. Meyer.
8. F. D. Charbonnet.
9. C. H. Lee.
10. L's Gimbel.
11. F. Metéye.
12. E. D. Pourpart.

And the jury being complete, the court appointed D. R. Gra-
17 ham foreman thereof, and the trial was proceeded with; and after hearing the pleadings and the evidence, and receiving a charge from the court, the said cause was submitted to the jury, who retired to consider on their verdict; after due deliberation they returned into court and then and there, through their said foreman, the said jury did render and deliver the following verdict, to wit:

"We, the jury, find a verdict for the plaintiff in the sum of $3,722.99, and that sample on exhibition in court and in controversy is cottonties.

"D. R. GRAHAM,
"*Foreman.*"

Whereupon it was ordered that the said verdict be recorded, and it is done accordingly.

Defendant's bill of exceptions.—Filed June 7; 1881, *nunc pro tunc as of Jan'y 25th*, 1881.

Be it remembered that on the trial of this cause certain facts being conceded as set forth in note of evidence and statements of facts filed in the cause in open court, and a sample of the articles of mer-
18 chandise imported by plaintiffs and described in the petition having been produced and exhibited to the jury, witnesses having been produced on the part of the plaintiff and on the part of defendant, it being claimed on the part of the plaintiff that the imported articles for the recovery of a portion of the duties paid upon which this suit was brought should have been classed and subjected to the duties as cotton-ties under the designation "manufactured articles not otherwise provided for," and it being claimed on the part of the defendant that the said imported articles should have been classed and subjected to duties under the designation "band or hoop iron."

And the court having charged the jury, at the request of defendant's counsel, as follows:

1st. The burden of proof is on the plaintiffs, and the presumption is in favor of correctness of decisions made by collector of customs, approved by the Secretary of the Treasury.

2d. If the jury find from the evidence that the articles imported
19 by plaintiffs consisted of iron bands, blackened, cut into lengths of 11 feet, and put up in bundles of 30, with 30 buckles on one band in each bundle, and not permanently attached; that the buckles can be used as buckles and the bands as band-iron, then the fact that the buckles accompany the bands will not prevent the bands from being included in and dutiable under the denomination of band-iron."

Now, the court further charged the jury that the practical question to be determined by the jury is whether the articles imported by plaintiffs are band, hoop, or scroll iron, or, on the other hand, cotton-ties.

This question must be determined by mercantile usage, as shown by the testimony in the cause.

That if the jury find from the evidence that said articles are cotton-ties, and are known in commerce as such, then they are subject to a duty of thirty-five per cent. ad valorem, but if the jury find that they
20 are band, hoop, or scroll iron, and known in commerce as such they are subject to a duty of one and a half cents a pound to which last charge and to each part of the same counsel for defendant then and there duly excepted, and since then matters do not appear of record, presents this his bill of exceptions and prays that the same may be allowed, signed, which is done accordingly.

(Signed) EDWARD C. BILLINGS, *Judge*.

Judgment.—Extract from judgment book, April term, 1881.

NEW ORLEANS, *Wednesday, May* 18, 1881.

Court met pursuant to adjournment. Present, Hon. E. C. Billings, district judge.

D. L. RANLETT & CO.
vs.
A. S. BADGER, COLLECTOR, &c. } No. 9192.

By reason of the verdict of the jury herein and in accordance there-

with, it is ordered, adjudged, and decreed that there be judgment
21 in favor of the plaintiffs, David L. Ranlett and Edward L. Ranlett, composing the commercial firm of D. L. Ranlett & Co., and against the defendant, Algernon S. Badger, collector of customs of the port of New Orleans, for the sum of three thousand seven hundred and twenty-two $\frac{99}{100}$ dollars.

It is further ordered that the plaintiffs recover the costs of suit. Judgment rendered May 18, 1881. Judgment signed May 23, 1881.

(Signed) EDWARD C. BILLINGS, *Judge.*

Motion & order for writ of error.—Entered and filed June 15th, 1881.

D. L. RANLETT & CO.
vs.
A. S. BADGER, COLLECTOR, &c. } No. 9192.

On motion of A. H. Leonard, attorney of the United States for said district, counsel for defendant, and on representing to the court that the defendant is aggrieved by the final judgment herein rendered against him on the 23d day of May; A. D. 1881, and is advised that
22 there is error thereon to his prejudice, and desires that a writ of error to operate as a supersedeas be granted him therefrom, and on further suggestion that said writ of error is applied for under and in accordance with directions from the Treasury Department of the United States,

It is ordered that a writ of error to operate as a supersedeas be allowed as prayed for, without bond, under provisions section 1001, Revised Statutes of the United States, and be returnable to the next October term of the Supreme Court of the United States.

23 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 22 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had on the trial of the case of D. L. Ranlett & Co. vs. A. S. Badger, collector, No. 9192 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 9th day of August, A. D. 1881.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, Edward C. Billings, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 9th day of August, A. D. 1881.

EDWARD C. BILLINGS, *Judge.*

24 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between D. L. Ranlett & Company and A. S. Badger, collector of customs of the port of New Orleans, a manifest error hath happened to the great damage of the said A. S. Badger, collector of customs of the port of New Orleans, as by his complaint appears, we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal distinctly and openly, you send the record and proceedings aforesail, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 15th day of June, in the year of our Lord one thousand eight hundred and eighty-one.

[SEAL.] F. A. WOOLFLEY,
Clerk of the United States Circuit Court for the District of Louisiana.

(Indorsed:) United States circuit court. No. 9192. A. S. Badger, collector of customs, plaintiff in error, versus D. L. Ranlett & Co., defendants in error. Writ of error. Filed June 15th, 1881. T. V. Coupland, d'y cl'k.

25 UNITED STATES OF AMERICA:

Circuit court of the United States, eastern district of Louisiana.

The President of the United States to D. L. Ranlett & Company greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the second Monday of October next, pursuant to a motion and order for a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, wherein A. S. Badger, collector of customs of the port of New Orleans, is plaintiff in error and you, D. L. Ranlett & Company, are defendants in error, to show cause, if any there be, why the judgment rendered against the said A. S. Badger, collector of customs of the port of New Orleans, as in said motion and order for a writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 16th day of July, in the year of our Lord one thousand eight hundred and eighty-one.

EDWARD C. BILLINGS, *Judge.*

26 (Indorsed:) R. United States circuit court. No. 9192. A. S. Badger, collector of customs, plaintiff in error, vs. D. L. Ranlett & Co., defendants in error. Citation.

Marshal's return.

Received Jul. 22, 1881, by the U. S. marshal, and on the same day, month, and year I served a true copy of the within writ of error on D. L. Ranlett & Co., defendants in error herein, by handing the same to W. W. Howe, esq., in person, in the city of New Orleans, the said W. W. Howe, a member of the law firm of Kennard, Howe & Prentiss, attorneys for the said D. L. Ranlett & Co., accepting service for said defendants in error.

E. S. CURRY,
D'y U .S. Marshal for East'n Dist. of La.

Personally appeared before me, E. S. Curry, a lawful deputy of Jack Wharton, U. S. marshal for the eastern district of Louisiana, and makes oath that he served a true copy of the within writ of error on the def'ts in error herein, as set forth in his official retu'n herein.

E. S. CURRY,
D'y U. S. Marshal for Eastern District of La.

Subscribed and sworn before me August 1st, 1881.

T. V. COUPLAND,
Commissioner United States Circuit Court,
Eastern District of Louisiana.

(Indorsement on cover:) No. 586. A. S. Badger, collector of customs of the port of New Orleans, plaintiff in error, vs. D. L. Ranlett & Company. E. Louisiana C. C. U. S. Filed 24th September, 1881.

560——2

ADDITION TO RECORD 586.

Supreme Court of the United States, October term, 1882.

A. S. BADGER, COLLECTOR, &C., PL'FF IN ERROR,
vs.
D. L. RANLETT & COMPANY.
No. 586. Filed October 14, 1882.

1

U. S. circuit court.

D. L. RANLETT & CO.
vs.
A. S. BADGER, COLL., &C.,
No. 9192.

Note of evidence and statement of facts.

Plaintiffs offered and introduced Exhibits A, B, C, and D of petition.

It was admitted that the allegations of petition were correct as to partnership of plaintiffs' ownership and importation of property, amount of same, and duties paid, and protest, appeals, and affirmance of collector's decision, and that the only issue disputed by defendant is the question—which is the sole question to be decided—whether the articles of merchandize described in the petition are dutiable under Schedule E as

2

hoop, band, or scroll iron, or as "manufactures of iron not otherwise provided for" in said schedule.

In case the plaintiffs be entitled to recover it is understood that the amount is $3,722.99.

CLERK'S OFFICE.

A true copy of note of evidence and statement of facts on file.
New Orleans, August 9th, 1882.
[SEAL.]

T. V. COUPLAND,
D'y Clerk, Clerks.

3

WASHINGTON, D. C., *October* 10, 1882.

The undersigned agree that the within belongs to the record in No. 586, docket of the Supreme Court of the U. S., Oct. term, 1882, and that it shall be printed & annexed to the record already printed.

S. F. PHILLIPS, *S. Gen'l, &c.*
KENNARD, HOWE & PRENTISS,
By JAMES LOWNDES,
Att'ys for Defend'ts in Error.

(Indorsed:) No. 9192. U. S. Supreme Court. 1882. October term. No. 586. D. L. Ranlett & Co. vs. A. S. Badger, coll'r, &c. Cert. copy of note of evidence & statement of facts. Filed 14th Oct'r, 1882. This case is now 586 of U. S. Sup. C't, Oct'r term, '82. Office Supreme Court U. S. Filed Oct. 14, 1882. James H. McKenney, clerk.

4781——1